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NOTES OF CASES.

Revocation of Will by Subsequent Marriage of Testator.—The contestant of the will in the case of *In re Del Genovese's Will*, 107 New York Supplement, 1033, claimed it had been revoked by her marriage to testator subsequent to the execution of the will. Proponent claimed that the marriage was invalid, as the wife had a husband living at that time; but it appeared that her former husband had disappeared several years before, and that the marriage had been contracted in good faith. The New York Surrogate Court held that the marriage was not void, but was good as to all the world, unless the first husband should appear and institute an action to annul it, and that the marriage revoked the will.

Regulating Hours of Labor of Women.—In *Muller v. Oregon*, 28 Supreme Court Reporter, 324, the United States Supreme Court held the Oregon statute, providing that no woman shall be employed in any mechanical establishment, factory, or laundry more than 10 hours in any one day, constitutional. The decision proceeds on the theory of the inherent difference in physical structure of the two sexes, and the necessity of protecting women both for their own sakes and the welfare of posterity.

Liability for Failure to Levy Execution.—Execution was placed in the hands of the sheriff, after which attorneys for parties interested in the action notified him that they considered the judgment invalid. He consulted other counsel, who expressed the same opinion. He then asked execution plaintiffs for an indemnity bond, which was refused. The Court of Appeals of Kentucky, in *Crane v. Crane*, 105 Southwestern Reporter, 370, decided that the sheriff was not bound to run the risk of the levy without indemnity.

Chastity Affecting Earning Capacity.—Plaintiff, in the case of *Carlton v. St. Louis & Suburban Ry. Co.*, 106 Southwestern Reporter, 1100, sued for injuries received while alighting from a car. It appeared that she was unmarried, and was pregnant at the time of the accident. Her occupation was that of laundress and seamstress. Defendant contended that her chastity should be considered on the question of her earning capacity. The Missouri Court of Appeals, upholding defendant's contention, reversed the judgment of the lower court, which held that her chastity should affect only her credibility as a witness.

"Secured" Right to Liberty.—Defendants, by fraudulent representations, enticed negroes to their farms, and kept them in servitude by force, thus depriving them of the rights and privileges secured by the

Constitution of the United States. In *Smith v. United States*, 157 Federal Reporter, 721, defendant claimed that the right to freedom from involuntary servitude and slavery was inborn or natural, and not secured by the Constitution or laws of the United States, but the United States Circuit Court of Appeals held that, while the right might be inborn or natural, that fact did not prevent its being "secured" by law.

Foreign Corporations Doing Business in the State.—The Legislature of Kansas in 1905 having authorized the Governor to employ accountants to investigate the state departments, he engaged a foreign corporation which, upon completion of its work, was refused payment by the State Treasurer, on the grounds that the employment of a "person" was contemplated by the law, and that the company, not having complied with the statutes granting it the right to do business in the state, could not therein maintain an action. In *Haskins & Sells v. Kelly*, 93 Pacific Reporter, 605, the Supreme Court of Kansas held that the services of complainant did not constitute doing business within the state, and that the foreign corporation law did not affect the right of the state to contract for services to be performed for it.

Former Opinion as Precedent on Appeal.—The California Supreme Court decided, in *People v. Maughs*, 86 Pacific Reporter, 187, that instructions in criminal cases, calling attention to the interest of accused, and indicating that his testimony might be looked upon with some degree of allowance, would be considered, in future, ground for reversal. One Ryan had been tried, but not heard on appeal. In *People v. Ryan*, 92 Pacific Reporter, 853, the court stated that its holding in the Maughs Case was applicable, as it was not meant to have a retroactive effect.

Burial of Dog in Cemetery.—A cemetery association, the regulations of which provided that its lots were to be used exclusively for the burial of the white race, sold adjoining lots to H. and R. R. buried in her lot the carcass of her pet dog. H. objected, and applied for an injunction. In *Hertle v. Riddell et al.*, 106 Southwestern Reporter, 282, the Kentucky Court of Appeals held H. was entitled to a mandatory injunction to compel removal of the dog, as its interment was contrary to the rules of the association, that, if the burial of dogs were permitted in a cemetery, donkeys, horses, or bulls might be interred at the dictates of the freakish fancy of the owner, and that contracts for the immunity of the resting places of the dead from outrages of this kind, being in harmony with the sentiment of all men, were enforceable.